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11 Attorneys for USACM Liquidating Trust

12 **UNITED STATES BANKRUPTCY COURT**
13 **DISTRICT OF NEVADA**

14 In re:
15 USA Commercial Mortgage Company,
16 Debtor.

17 Case No. BK-S-06-10725-LBR
18 Chapter 11

19 **DECLARATION OF GEOFFREY L.
20 BERMAN IN SUPPORT OF
21 OMNIBUS OBJECTIONS OF
22 USACM TRUST TO PROOFS OF
23 CLAIM BASED UPON
24 INVESTMENT IN THE LERIN
25 HILLS LOAN**

26 Hearing Date: September 30, 2011
Hearing Time: 9:30 a.m.
Estimated Time for Hearing: 10 minutes

27 I, Geoffrey L. Berman, declare under penalty of perjury:
28
29 1. I am an adult person competent to testify in court.
30
31 2. I make this declaration based upon my personal knowledge, and upon the
32 records USA Commercial Mortgage Company.
33
34 3. I am the Trustee of the USACM Liquidating Trust (“USACM Trust”),
35 which is an entity created by the Debtors’ Third Amended Joint Chapter 11 Plan of
36 Reorganization (“Plan”), in the jointly-administered bankruptcy cases, In re USA
37 Commercial Mortgage Company, BK-S-06-10725-LBR, pending in the United States
38 Bankruptcy Court for the District of Nevada.
39

1 4. USACM circulated an Offer Sheet to prospective Direct Lenders soliciting
2 funding for an acquisition and development loan to a borrower identified as "Lerin Hills
3 Ltd." A copy of the Offer Sheet is attached hereto as **Exhibit B** and incorporated by this
4 reference.

5 5. The total loan amount proposed was \$12,900,000. The Offer Sheet
6 described the investment as a "Subordinated Trust Deed Investment" and noted that the
7 investment would be secured by a second deed of trust on 893 acres of land located along
8 the north side of State Highway 46 and three miles west of Interstate 10, about 30 miles
9 northwest of San Antonio, Texas. The Offer Sheet noted that the project was a fully
10 entitled master planned community on 893 acres, which would include 1,375 lots. The
11 Offer Sheet also noted that the Borrower would establish a Municipal Utility District that
12 provides reimbursement for certain infrastructure costs through bond issuances, and that
13 any reimbursements would be part of the Direct Lenders' collateral.

14 6. The Offer Sheet further stated that the loan to value was approximately
15 61% based on a July 22, 2005 appraisal from Dugger, Canaday, Gafe, Inc

16 7. On December 7, 2005, the Borrower made and delivered to various lenders,
17 including the Direct Lenders identified in **Exhibit A**, a Promissory Note Secured by Deed
18 of Trust, in the amount of \$12,900,000 (the "Note") and a Loan Agreement. The Loan
19 Agreement and Note provided for an initial loan of \$10,000,000, with potential
20 subsequent advances up to \$12,900,000. The Note was secured by a "Deed of Trust,
21 Assignment of Rents, Security Agreement and Fixture Filing" from Borrower in favor of
22 the Direct Lenders that was recorded in the official records of Kendall County, Texas on
23 December 22, 2005 at Instrument Number 00203809. The Loan Agreement expressly
24 provided that the Deed of Trust was a second position lien on the Property behind a
25 \$20,000,000 deed of trust in favor of Wachovia.
26

8. The Note was also supported by an Unconditional Guaranty executed by J. Abel Godines on December 7, 2005.

9. The USACM "Loan Summary" dated July 31, 2006 and filed in this case shows that Borrower was "Non-performing" on the Note as of July 31, 2006.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: August 7, 2011

/s/ Geoffrey L. Berman
Geoffrey L. Berman

Copy of the foregoing deposited (without Exhibits) in first class postage prepaid U.S. Mail on August 7, 2011 to All investors listed on Exhibit A Attached.

s/ Matt Burns
Matt Burns, Paralegal